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11
12 Attorneys for Plaintiff AGENSYS, INC.

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15

16 AGENSYS, INC.,

17 Plaintiff,

18 v.

19 THE REGENTS OF THE
20 UNIVERSITY OF CALIFORNIA, a
California entity; NORBERT
21 PEEKHAUS, an individual; HANS
DAVID ULMERT, an individual; and
22 DOES 1-10,

23 Defendants.

Case No. 2:24-cv-3961

COMPLAINT

DEMAND FOR JURY TRIAL

24 Plaintiff Agensys, Inc. (“Plaintiff” or “Agensys”) files this Complaint against
25 Defendants The Regents Of The University Of California (“Regents”), Norbert
26 Peekhaus (“Peekhaus”), Hans David Ulmert (“Ulmert”), and Does 1–10, as follows.
27 When used herein, “Defendants” refers collectively to all defendants.
28

NATURE OF THE ACTION

1
2 1. This action arises from misappropriation of Agensys' trade secrets by
3 Regents, Peekhaus, and Ulmert, and from Peekhaus' breach of his employment
4 contract with Agensys.

5 2. From March 2010 through September 2017, Peekhaus worked for
6 Agensys as a Senior Research Scientist and then as a Senior Principal Scientist.
7 During that time, Peekhaus worked out of Agensys' Santa Monica, California
8 facility.

9 3. Beginning in or around 2010, a scientific team at Agensys identified as
10 a promising research target a specific protein associated with cancer cells and
11 surrounding tissue. This protein is called LRRC15, which stands for leucine-rich
12 repeat-containing 15. Peekhaus was part of this scientific target discovery team.

13 4. In or around 2013, Agensys assembled a research program dedicated to
14 finding therapies targeting LRRC15. This program was called the AGS79 program.
15 Peekhaus led the program, and, among other things, was responsible for developing
16 (i) antibodies targeting the LRRC15 protein (i.e., "anti-LRRC15" antibodies) and
17 (ii) therapeutic agents to attack LRRC15-expressing cells associated with certain
18 cancers.

19 5. Developing these antibodies and therapeutic agents involved the
20 creation of unique amino acid binding sequences for LRRC15, as well as data relating
21 to the chemical and biological properties of the anti-LRRC15 antibodies and binding
22 sequences, such as (i) high binding affinity and selectivity, (ii) cross-reactivity to
23 human and non-human LRRC15, (iii) effective *in vivo* targeting of LRRC15-
24 expressing cells, and (iv) suitability for conjugation with other therapeutic agents
25 without substantial loss of advantageous properties. The AGS79 program further
26 involved the creation of scientific information regarding the conjugation of anti-
27 LRRC15 antibodies with other anti-cancer agents, including information about the
28 ability of these conjugates to effectively kill cancer cells. Collectively, the above-

1 described information relating to the anti-LRRC15 antibodies and binding sequences
2 is referred to herein as the “Agensys LRRC15 Antibody Trade Secrets.” During the
3 course of his employment, Peekhaus had direct and continuous access to the Agensys
4 LRRC15 Antibody Trade Secrets and related confidential information.

5 6. As a condition of his employment, Peekhaus entered into an
6 employment contract with Agensys that, among other things, required Peekhaus to
7 maintain the secrecy of the Agensys LRRC15 Antibody Trade Secrets and related
8 confidential information, and assigned to Agensys ownership of all inventions and
9 discoveries Peekhaus made in connection with his employment.

10 7. Peekhaus was aware of his responsibility to maintain the secrecy of the
11 Agensys LRRC15 Antibody Trade Secrets and related confidential information he
12 acquired at Agensys, even apart from his employment contract.

13 8. On September 24, 2017, Peekhaus left Agensys. Shortly thereafter, on
14 information and belief, Peekhaus commenced employment with Regents and
15 remained employed at Regents for approximately 19 months.

16 9. On April 1, 2020, Regents began filing U.S. patent applications, listing
17 Peekhaus as an inventor, along with Ulmert, that set forth some of the Agensys
18 LRRC15 Antibody Trade Secrets and related confidential information Agensys had
19 entrusted Peekhaus to maintain in secrecy, including the amino acid sequences for
20 the variable heavy and variable light chains (i.e., the binding sequences) of one of the
21 trade secret anti-LRRC15 antibodies discovered in the AGS79 program. Regents
22 disclosed these amino acid sequences as SEQ ID NOS. 1 and 2 in its associated patent
23 applications, identified below.

24 10. It is apparent from the Regents patent applications that Peekhaus
25 improperly disclosed Agensys LRRC15 Antibody Trade Secrets and related
26 confidential information to Ulmert and Regents (among others), who then used and
27 further disclosed Agensys LRRC15 Trade Secrets and related confidential
28 information for their own competitive benefit.

1 operated in Santa Monica, California. Agensys has its principal place of business at
2 2375 Waterview Drive, Northbrook, Illinois 60062.

3 15. On information and belief, Regents is a public corporation organized
4 and existing under the laws of the State of California operating under Article IX,
5 Section 9 of the California Constitution, having its corporate offices located at
6 1111 Franklin Street, Oakland, California 94607.

7 16. On information and belief, Peekhaus is an individual domiciled in
8 Los Angeles County, California, and is presently employed by Uptake Bio.

9 17. On information and belief, Ulmert is an individual domiciled in
10 Los Angeles County, California, and is presently employed by Regents as an
11 Assistant Professor-in-Residence in Molecular and Medical Pharmacology in Los
12 Angeles.

13 18. At present, Agensys is ignorant of the true names and capacities of
14 additional entities and individuals involved in and responsible for the
15 misappropriation of Agensys LRRC15 Antibody Trade Secrets and related
16 confidential information, including by filing patent applications using and disclosing
17 Agensys LRRC15 Antibody Trade Secrets and related confidential information and,
18 therefore, sues them herein under the fictitious names Does 1–10. Agensys will
19 amend to identify and state applicable claims, as appropriate, against additional
20 entities and individuals as relevant information becomes available through
21 investigation and discovery.

22 **JURISDICTION AND VENUE**

23 19. This Court has original jurisdiction over this matter under 28 U.S.C.
24 § 1331 because Agensys asserts federal claims under the Defend Trade Secrets Act
25 (“DTSA”), 18 U.S.C. § 1836, *et seq.*, and the Declaratory Judgment Act (“DJA”),
26 28 U.S.C. § 2201. The Court has supplemental jurisdiction over Agensys’ remaining
27 state law claims, which form part of the same case or controversy as the federal
28 question claims, pursuant to 28 U.S.C. § 1367(a).

1 20. This Court has personal jurisdiction over Regents, a public corporation
2 organized under the laws of the State of California and operating under Article IX,
3 Section 9 of the California Constitution. Regents is headquartered at 1111 Franklin
4 Street, Twelfth Floor, Oakland, CA 94607.

5 21. Regents operates 10 public universities in the State of California,
6 including the University of California Los Angeles (“UCLA”), located at 405 Hilgard
7 Avenue, Los Angeles, CA 90095.

8 22. This Court has personal jurisdiction over Peekhaus, an individual
9 domiciled in Los Angeles, California.

10 23. This Court has personal jurisdiction over Ulmert, an individual
11 domiciled in Santa Monica, California.

12 24. Alternatively, this Court has personal jurisdiction over the Defendants
13 because the alleged misappropriation of Agensys LRRC15 Antibody Trade Secrets
14 and related confidential information by Peekhaus, Ulmert, and Regents, is believed
15 to have occurred in this district, in whole or in part. UCLA, the Regents site where
16 Regents’ and Ulmert’s misappropriation of Agensys LRRC15 Antibody Trade
17 Secrets and related confidential information is alleged to have taken place, is in this
18 district. Peekhaus’ misappropriation of Agensys LRRC15 Antibody Trade Secrets
19 and related confidential information is alleged to have taken place, in whole or in
20 part, in this district at Agensys’ Santa Monica facilities and at UCLA. Further,
21 Peekhaus entered into, and breached, various provisions of his employment
22 agreement with Agensys, while employed at Agensys’ Santa Monica facilities,
23 located in this district.

24 25. Venue in this district is proper as to Regents under 28 U.S.C. § 1391(d)
25 because Regents is a public corporation operating under Article IX, Section 9 of the
26 California Constitution, maintains corporate offices located in this state, and engages
27 in regular business in California and this district.
28

1 26. Venue in this district is proper under 28 U.S.C. § 1391(c) as to each of
2 Peekhaus and Ulmert because they are natural persons who reside in this district.

3 **FACTUAL ALLEGATIONS**

4 **Agensys' Innovations and Trade Secrets**

5 27. Founded in 1997 in Santa Monica, California, Agensys is a
6 pharmaceutical company that focuses on developing cancer treatments using
7 specialized antibodies.

8 28. Beginning in or around June 2010, Agensys began a program to identify
9 potential targets for a type of cancer therapy that has become known as ADC
10 (antibody-drug conjugate) therapy.

11 29. Through this target discovery program, Agensys identified LRRC15 as
12 a protein that is highly expressed in the cells surrounding a variety of tumors
13 (sometimes referred to as “stroma”) and in certain cancer cells themselves. Agensys
14 further determined that LRRC15 typically had no or low expression in normal cells
15 and tissues.

16 30. These discoveries led Agensys scientists, including Peekhaus, to
17 hypothesize that the LRRC15 protein could be used as a target for cancer therapy—
18 antibodies that specifically target the LRRC15 protein could bring anti-cancer
19 compounds to, and selectively attack, cancer cells and surrounding stroma that
20 express the LRRC15 protein.

21 31. In or around 2013, Agensys initiated the AGS79 research program
22 dedicated to this hypothesis. The AGS79 program included identifying (i) anti-
23 LRRC15 antibodies, including their unique amino acid sequences to bind LRRC15
24 and associated properties, and (ii) potential therapies using anti-LRRC15 antibodies
25 to attack LRRC15-expressing cancer and stroma cells (for example, ADCs using
26 anti-LRRC15 antibodies). Peekhaus was designated the program leader for AGS79.

27 32. Agensys scientists in the AGS79 program generated, developed,
28 characterized, tested, and selected among many anti-LRRC15 antibodies, and

1 utilized their anti-LRRC15 antibodies to design, develop, and test associated anti-
2 cancer therapies. In so doing, Agensys created the Agensys LRRC15 Antibody Trade
3 Secrets, which differed from the general knowledge in the trade during the relevant
4 period, and related confidential information.

5 33. Peekhaus learned Agensys LRRC15 Antibody Trade Secrets and related
6 confidential information, including the amino acid binding sequences for LRRC15
7 disclosed by Regents as SEQ ID NOS. 1 and 2 in its later-filed patent applications,
8 during his employment at Agensys and leadership of the AGS79 program.

9 **Agensys' Trade Secrets Are Valuable and Agensys Protected Their Secrecy**

10 34. Agensys developed the Agensys LRRC15 Antibody Trade Secrets,
11 including the amino acid binding sequences for LRRC15 later disclosed by Regents
12 as SEQ ID NOS. 1 and 2, and related confidential information at great expense.
13 Agensys' AGS79 program involved significant investment from Agensys, including
14 funding, resources, personnel, and opportunity costs over a multi-year period.

15 35. The Agensys LRRC15 Antibody Trade Secrets have independent
16 economic value to Agensys as they constitute intellectual property assets with
17 commercial value from not being generally known to, and not being readily
18 ascertainable through proper means by, others who can obtain economic value from
19 the disclosure or use of the information.

20 36. In using the Agensys LRRC15 Antibody Trade Secrets and related
21 confidential information, Agensys' competitors including Defendants benefit by
22 saving significant time and resources in developing and characterizing valuable anti-
23 LRRC15 antibodies and ADCs derived from such antibodies.

24 37. Agensys spent seven years and millions of dollars developing the
25 Agensys LRRC15 Antibody Trade Secrets and related confidential information,
26 including the amino acid binding sequences for LRRC15 disclosed by Regents as
27 SEQ ID NOS. 1 and 2, and took great care to prevent their disclosure. The Agensys
28 LRRC15 Antibody Trade Secrets and related confidential information have value

1 from Agensys' substantial investment of funding in their development and their
2 continued commercial worth, promise, and potential.

3 38. Agensys entrusted Peekhaus, as well as all others in the AGS79
4 program, with the Agensys LRRC15 Antibody Trade Secrets and related confidential
5 information.

6 39. Agensys took reasonable measures to protect the Agensys LRRC15
7 Antibody Trade Secrets and related confidential information, including amino acid
8 binding sequences for LRRC15 such as those disclosed by Regents as SEQ ID NOS.
9 1 and 2.

10 40. Agensys' reasonable protective measures include employee agreements
11 for all Agensys employees, obligating all individuals with access to Agensys' trade
12 secrets and proprietary information to maintain the secrecy of the information.
13 Agensys has had such employment agreements in place at all times relevant to this
14 Complaint.

15 41. Additionally, Agensys protects access to its proprietary information and
16 trade secrets by, among other things, restricting access to its facilities, computers,
17 documents, lab notebooks, and equipment. At all times relevant to this Complaint,
18 Agensys restricted access to the Agensys LRRC15 Antibody Trade Secrets and
19 related confidential information by requiring badge access to enter its facilities, using
20 passwords for electronic devices, and enforcing security policies on all Agensys
21 properties.

22 42. Agensys also protects access to its proprietary information and trade
23 secrets by, among other things, restricting access to its electronic document storage
24 systems, software, network computer drives, electronically stored data, electronically
25 stored lab notebooks, and electronic communications. At all times relevant to this
26 Complaint, Agensys restricted access to the Agensys LRRC15 Antibody Trade
27 Secrets and related confidential information by requiring passwords and restricting
28 users' online access.

Defendants' Misappropriation of Agensys' Trade Secrets

43. Shortly after Peekhaus took a position with Regents in or around February 2018, Regents, Peekhaus, and Ulmert began using the Agensys LRRC15 Antibody Trade Secrets and related confidential information, and filing patent applications disclosing the Agensys LRRC15 Antibody Trade Secrets, including the amino acid binding sequences for LRRC15 disclosed by Regents as SEQ ID NOS. 1 and 2, and related confidential information.

44. The Regents patent applications that contain Agensys LRRC15 Antibody Trade Secrets and related confidential information include U.S. Patent Application No. 17/915,377 (published as U.S. Patent Application Publication No. 2023/0133775); U.S. Provisional Application No. 63/003,598; and International Application No. PCT/US2021/025054 (published as International Publication No. WO 2021/202642).

45. Regents filed U.S. Provisional Patent Application No. 63/003,598 (“the ’598 provisional”) on April 1, 2020, listing Peekhaus and Ulmert as inventors and Regents as the sole assignee.

46. On March 31, 2021, Regents filed a related international patent application under the Patent Cooperation Treaty (“PCT”), assigned PCT International Application No. PCT/US2021/025054 (the “PCT application”). Peekhaus and Ulmert are listed as inventors, and Regents is listed as the sole assignee of the PCT application.

47. Regents then filed U.S. Patent Application No. 17/915,377 (“the ’377 application”) on September 28, 2022, as the U.S. counterpart to the PCT application and claiming priority to the ’598 provisional. The ’377 application later published as U.S. Patent Application Publication 2023/0133775 (“the ’775 publication”) on May 4, 2023. Peekhaus and Ulmert are listed as inventors and Regents is listed as the sole assignee of the ’377 application. A true and correct copy of the ’377

1 application (as embodied in the '775 publication) is attached to this Complaint as
2 Exhibit 1 and incorporated herein by this reference.

3 48. The PCT application has entered the national phase, with pending
4 patents in at least nine jurisdictions around the globe, as listed in the United States
5 Patent and Trademark Office's Global Dossier. *See, e.g.,*
6 <https://globaldossier.uspto.gov/result/application/US/17915377/98291>.

7 49. The foregoing patent applications and any other inventions and patent
8 applications that incorporate, disclose, claim, or use the Agensys LRRC15 Antibody
9 Trade Secrets and related confidential information that Defendants have filed or will
10 file based on the Agensys LRRC15 Antibody Trade Secrets and related confidential
11 information are referred to collectively as "the Patent Rights."

12 50. Defendants used the Agensys LRRC15 Antibody Trade Secrets and
13 related confidential information to develop the subject matter of the Patent Rights,
14 including the amino acid binding sequences for LRRC15 disclosed as SEQ ID NOS.
15 1 and 2.

16 51. The Patent Rights disclose Agensys LRRC15 Antibody Trade Secrets
17 and related confidential information.

18 52. For example, the '377 application, along with the '598 provisional and
19 the PCT application, disclose Agensys LRRC15 Antibody Trade Secret amino acid
20 binding sequences in SEQ ID NOS. 1 and 2. *See* '775 publication, ¶¶ [0063]–[0065],
21 SEQ ID NOS. 1 and 2. These sequences, each being over 100 amino acids long, are
22 exact replicas, i.e., copies, of valuable Agensys LRRC15 Antibody Trade Secret
23 binding sequences for LRRC15 discovered at Agensys and known to Peekhaus
24 through his involvement in the AGS79 program.

25 53. In addition, the '377 application discloses other Agensys LRRC15
26 Antibody Trade Secrets, including that an anti-LRRC15 antibody having the amino
27 acid binding sequences in SEQ ID NOS. 1 and 2 (named "DUNP19" in the '377
28

1 application) is optimized and has advantages over other anti-LRRC15 antibodies.
2 See '775 publication, ¶¶ [0009]–[0010], [0014], [0024]–[0028], [0062]–[0063].

3 54. Further, the '377 application uses and discloses Agensys LRRC15
4 Antibody Trade Secrets in proposed claims, including claims 16 and 63, reciting
5 monoclonal antibodies and “targeting molecules” that bind to LRRC15 comprising
6 “the amino acid sequences of SEQ ID NO:1 and SEQ ID NO:2,” both alone and when
7 “associated with a cytotoxic agent.”

8 55. It is thus clear that Defendants used the Agensys LRRC15 Antibody
9 Trade Secrets and related confidential information, including knowledge of the anti-
10 LRRC15 antibody binding sequences and their properties, to develop the subject
11 matter of the '377 application. Peekhaus provided these Agensys LRRC15 Antibody
12 Trade Secret sequences to Regents and Ulmert for their use, inclusion in the '377
13 application (including in SEQ ID NOS. 1 and 2) to obtain patent coverage, and
14 subsequent licensing and commercialization to the detriment of Agensys.

15 56. Agensys reasonably first discovered Defendants' misappropriation in
16 August 2023 when it first learned of the '775 publication through the exercise of
17 reasonable diligence.

18 **Additional Ongoing Misappropriation of Agensys Trade Secrets and**

19 **Confidential Information**

20 **Radiopharm**

21 57. On or around April 4, 2022, Radiopharm announced that it had entered
22 into an exclusive license agreement for the Patent Rights with Regents.

23 58. Radiopharm licensed the Patent Rights from Regents in order to pursue
24 the anti-LRRC15 antibody denominated “DUNP19.”

25 59. The binding sequences of DUNP19 are SEQ ID NOS. 1 and 2 in the '377
26 application.
27
28

60. The binding sequences of DUNP19 therefore consist of Agensys LRRC15 Antibody Trade Secret binding sequences, i.e., one of the anti-LRRC15 antibodies developed in Agensys' AGS79 program.

61. Regents and Radiopharm have pursued and are pursuing pre-clinical testing of the DUNP19 antibody to target cancers such as osteosarcoma and intend to use therapeutic agents such as ADCs that incorporate or are derived from the Agensys LRRC15 Antibody Trade Secrets and related confidential information.

62. Ulmert serves on the Scientific Advisory Board of Radiopharm.

Zelgen

63. On information and belief, in or about August 2019, Peekhaus left Regents and was hired as the Director of Research at Gensun Biopharma Inc. (“Gensun”), a U.S.-based subsidiary of Shuzhou Zelgen Biopharmaceuticals Co., Ltd. and Shanghai Zelgen Pharma. Tech Co. Ltd. (collectively “Zelgen”).

64. On December 12, 2021, Zelgen began filing patent applications that used and disclosed Agensys LRRC15 Antibody Trade Secrets and related confidential information, beyond that disclosed in the Regents patent applications. PCT Application No. PCT/CN2022/138466 and its subsequent publication as WO 2023/104214 A1, assigned to Zelgen, disclosed Agensys LRRC15 Antibody Trade Secret amino acid binding sequences for LRRC15, including the amino acid binding sequences for at least two additional anti-LRRC15 antibodies developed in the Agensys AGS79 program while Peekhaus worked for Agensys.

65. In the Zelgen applications, multiple disclosed sequences of over 100 amino acids are exact replicas (i.e., copies) of the Agensys Antibody LRRC15 Trade Secret amino acid binding sequences for anti-LRRC15 antibodies developed in Agensys' AGS79 program. These Zelgen-disclosed amino acid binding sequences are distinct from the amino acid binding sequences for LRRC15 disclosed by Regents as SEQ ID NOS. 1 and 2 in the '377 application.

1 66. Peekhaus had access to, and involvement with, the Zelgen-disclosed
2 amino acid binding sequences during his period of employment at Agensys, as the
3 leader of the AGS79 program. On information and belief, Peekhaus provided these
4 Agensys LRRC15 Antibody Trade Secret sequences to Zelgen for their use, inclusion
5 in the Zelgen application to obtain patent coverage, and their development and
6 commercialization.

7 **Peekhaus Violated His Contractual Obligations To Agensys**

8 67. As a condition of his employment, on March 30, 2010, Peekhaus and
9 Agensys executed a “Confidentiality and Intellectual Property Development
10 Agreement” (the “Employment Agreement”). The Employment Agreement uses the
11 term “Astellas” that is defined to include Agensys, among other affiliated entities.
12 The Employment Agreement states in part “I understand that I am or will be
13 employed by one of the companies comprising the Astellas US Group which are:
14 Agensys, Inc. . . .” The Employment Agreement is a contract between Peekhaus and
15 Agensys. In the following paragraphs 68-72, the term “Astellas” refers to Agensys.

16 68. Pursuant to paragraph 2 of the Employment Agreement (“Disclosure of
17 Confidential Information”), Peekhaus agreed “I will not without Astellas’ prior
18 permission, directly or indirectly utilize or disclose to anyone outside of Astellas,
19 either during or after my employment with Astellas ends, trade secrets or other
20 confidential information of Astellas, or any information received in confidence from
21 third parties by Astellas or about third parties received by Astellas, as long as such
22 matters remain trade secrets or confidential.”

23 69. Paragraph 2 of the Employment Agreement defined “Trade secrets and
24 other confidential information” to “include any information or material which is not
25 generally known to the public and which (a) is generated or collected by or utilized
26 in the operations of Astellas and relates to the actual or anticipated business or
27 research or development of Astellas; or (b) is suggested by or results from any task
28 assigned to me by Astellas or work performed by me for or on behalf of Astellas.”

1 70. Paragraph 2 of the Employment Agreement further provides examples
2 of confidential information, including “pre-clinical and clinical studies, pipeline
3 products, development programs, . . . technical know-how, formulae, processes,
4 chemicals, preparations, test data, designs, prototypes, models, software, solutions,
5 and research and development.”

6 71. Pursuant to paragraph 3 of the Employment Agreement (“Return of
7 Property and Copying”), Peekhaus affirmed “I agree that all tangible materials
8 (whether originals or duplicates), including, but not limited to, notebooks, computers,
9 files, reports, proposals, . . . formulae, prototypes, tools, equipment, models,
10 specifications, technical data, study data, methodologies, research results, test results,
11 laboratory results, financial data, contracts, agreements, correspondence, documents,
12 computer disks, software, computer printouts, information stored electronically on a
13 computer, memoranda, and notes, in my possession or control which in any way
14 relate to Astellas’ business shall be the sole property of Astellas and that I shall not
15 directly or indirectly use or supply such items or information to any competitor or
16 other third-party . . . and in any event promptly upon termination of my employment
17 with Astellas, deliver all such materials to Astellas and will not retain any originals,
18 copies or summaries of such materials.”

19 72. Pursuant to paragraph 4 of the Employment Agreement (“Assignment
20 of IP”), Peekhaus agreed that “I hereby assign to Astellas my entire right, title, and
21 interest in any idea, formula, invention, discovery, design, drawing, process, method,
22 technique, device, improvement, computer program and related documentation,
23 technical and non-technical data and work of authorship . . . which I may solely or
24 jointly conceive, write or acquire during the period I am working with Astellas . . .”

25 73. Peekhaus breached these provisions of the Employment Agreement by
26 disclosing the Agensys LRRC15 Antibody Trade Secrets and related confidential
27 information to Regents, Ulmert, and others, using the Agensys LRRC15 Antibody
28 Trade Secrets and related confidential information after he left Agensys for the

1 benefit of Defendants, Radiopharm, Gensun, Zelgen, and potentially others, and by
2 purporting to assign inventions and discoveries to Regents and/or other entities where
3 the inventions and discoveries were rightfully assigned to Agensys.

4 **FIRST CAUSE OF ACTION**

5 **Misappropriation of Trade Secrets Under the Defend Trade Secrets Act**

6 **(18 U.S.C. § 1836, *et seq.*)**

7 **(Against All Defendants)**

8 74. Agensys incorporates by reference the allegations contained in
9 paragraphs 1 through 73 as though fully set forth herein.

10 75. Agensys is the owner of Agensys LRRC15 Antibody Trade Secrets and
11 related confidential information that, as described above, constitute trade secrets
12 within the meaning of 18 U.S.C. § 1839(3). Agensys' trade secrets are scientific,
13 technical, and engineering information including patterns, plans, formulas, designs,
14 prototypes, methods, techniques, processes, and medical treatments or therapies that
15 are used, sold, shipped and/or ordered in, or intended to be used, sold, shipped, and/or
16 ordered in, interstate and foreign commerce. Throughout its development and use of
17 the Agensys LRRC15 Antibody Trade Secrets, Agensys intended for the trade secrets
18 to become used in a product in interstate and foreign commerce.

19 76. At all relevant times, Agensys has taken reasonable measures and
20 precautions to keep this information secret. As described above, Agensys took
21 measures including, but not limited to, restricting access to sensitive information,
22 requiring employees and contractors to sign agreements prohibiting use and
23 disclosure of such information outside Agensys, protecting files and information
24 from unauthorized access, restricting physical access and implementing security
25 systems at Agensys' facilities and storage sites, and requiring the return of sensitive
26 materials upon termination of agreements.

27 77. Agensys' trade secrets derive independent economic value from not
28 being generally known to the public and not readily ascertainable through proper

1 means by others who can obtain economic value from their disclosure or use.
2 Agensys' trade secrets are not readily ascertainable or capable of being reverse-
3 engineered by other competitors, and thus their confidentiality allowed Agensys to
4 obtain a competitive advantage that is otherwise eliminated by their disclosure.

5 78. Any competitor who learns of Agensys' trade secret information would
6 receive an unfair competitive advantage that could tangibly harm Agensys'
7 competitive position in the market, potentially depriving Agensys of many millions
8 of dollars in lost revenue.

9 79. Developing trade secrets and maintaining their secrecy are critical to
10 Agensys' business. Agensys' medicines and therapies are a byproduct of its robust
11 research and development program. The pharmaceutical research and development
12 industry is highly competitive. Agensys protects its trade secrets to prevent
13 competitors from acquiring, disclosing, and using Agensys' trade secrets.

14 80. Regents, Peekhaus, and Ulmert have misappropriated the Agensys
15 LRRC15 Antibody Trade Secrets and related confidential information, as described
16 above.

17 81. Defendants have used the Agensys LRRC15 Antibody Trade Secrets
18 and related confidential information to unfairly advance the development of
19 Defendants' own products and technology to Agensys' detriment.

20 82. Peekhaus improperly disclosed the Agensys LRRC15 Antibody Trade
21 Secrets and related confidential information to Regents, Ulmert, and others, without
22 Agensys' knowledge or consent.

23 83. On information and belief, Regents and Ulmert, knew, reasonably
24 should have known, or were willfully blind to the fact that Peekhaus owed Agensys
25 an obligation to maintain the secrecy of the Agensys LRRC15 Antibody Trade
26 Secrets and related confidential information, and that they were violating Agensys'
27 trade secret rights by acquiring, using, and/or disclosing the Agensys LRRC15
28 Antibody Trade Secrets.

1 84. Regents, Peekhaus, and Ulmert improperly disclosed, without Agensys'
2 knowledge or consent, the Agensys LRRC15 Antibody Trade Secrets and related
3 confidential information by, among other things, publicly disclosing them in
4 published patent applications.

5 85. Defendants' conduct constitutes misappropriation of trade secrets under
6 35 U.S.C. § 1836.

7 86. Agensys has been, and continues to be, harmed by Defendants'
8 misappropriation of Agensys' trade secrets. Agensys thus seeks compensatory
9 damages and equitable relief.

10 87. Defendants' actions have caused and will continue to cause Agensys to
11 suffer severe competitive injury, irreparable harm, and significant damages in an
12 amount to be proven at trial. As the direct and proximate result of such
13 misappropriation, Agensys has suffered, among other things, damage within the
14 meaning of 18 U.S.C. § 1836(b)(3)(B)(i) in an amount that is yet unknown. If
15 Defendants' conduct is allowed to continue unchanged, Agensys will continue to
16 suffer irreparable injury and significant damages.

17 88. Because Agensys' remedy at law is inadequate to compensate Agensys
18 for Defendants' misappropriation of the Agensys LRRC15 Antibody Trade Secrets,
19 Agensys also seeks equitable relief. Agensys is entitled to injunctive relief pursuant
20 to 18 U.S.C. § 1836(b)(3)(A) and seeks appropriate, just equitable relief to recover
21 and protect its proprietary, confidential, and trade secret information, and to protect
22 its other legitimate business interests.

23 89. On information and belief, Defendants' misappropriation of trade
24 secrets was willful and malicious within the meaning of 18 U.S.C.
25 § 1836(b)(3)(C),(D). Accordingly, Agensys is entitled to recover exemplary
26 damages and its reasonable attorneys' fees.

27 90. Pursuant to the Court's inherent powers and pursuant to 18 U.S.C.
28 § 1836(b), Agensys asks the Court to provide any additional relief appropriate to

1 remedy Defendants' misappropriation of trade secrets, including the assignment of
2 all patent applications or patents purportedly assigned to Regents that disclose, claim,
3 or were derived from any of the Agensys LRRC15 Antibody Trade Secrets and
4 related confidential information, including any assignment of all amendments,
5 continuations, and U.S. or foreign counterparts thereto.

6 **SECOND CAUSE OF ACTION**

7 **Declaratory Judgment**

8 **(28 U.S.C. § 2201)**

9 **(Against All Defendants)**

10 91. Agensys incorporates by reference the allegations contained in
11 paragraphs 1 through 90 as though fully set forth herein.

12 92. There exists an actual, ripe, and justiciable controversy between
13 Agensys and Defendants regarding each party's rights and interests in the Patent
14 Rights.

15 93. As described above, Peekhaus developed and/or had access to Agensys
16 LRRC15 Antibody Trade Secrets and related confidential information, including the
17 amino acid binding sequences for LRRC15 disclosed by Regents as SEQ ID NOS. 1
18 and 2, during the course and scope of his employment with Agensys. As described
19 above, these Agensys LRRC15 Antibody Trade Secrets, including the amino acid
20 binding sequences for LRRC15 disclosed by Regents as SEQ ID NOS. 1 and 2, and
21 related confidential information arose out of or resulted from confidential Agensys
22 information Peekhaus obtained, was provided, or otherwise acquired in connection
23 with his employment with Agensys.

24 94. Peekhaus subsequently disclosed these Agensys LRRC15 Antibody
25 Trade Secrets, including the amino acid binding sequences for LRRC15 disclosed by
26 Regents as SEQ ID NOS. 1 and 2, and related confidential information to Regents,
27 Ulmert, and others, in violation of his Employment Agreement with Agensys.
28 Regents, Peekhaus, and Ulmert improperly used the Agensys LRRC15 Antibody

1 Trade Secrets to prepare patent applications and publications, and disclosed the
2 Agensys LRRC15 Antibody Trade Secrets and other related confidential information
3 in those patent applications and publications, including the amino acid binding
4 sequences for LRRC15 identified as SEQ ID NOS. 1 and 2.

5 95. Defendants also improperly used the Agensys LRRC15 Antibody Trade
6 Secrets and related confidential information to derive further inventions,
7 improvements, and discoveries that Defendants disclosed and claimed in the Patent
8 Rights.

9 96. Pursuant to the terms of the Employment Agreement between Agensys
10 and Peekhaus, as described above, Agensys is the legal and/or equitable owner of
11 inventions and discoveries disclosed in the Patent Rights.

12 97. As a result of the Employment Agreement as well as the trade secret
13 misappropriation and events described in detail above, Agensys has legal and/or
14 equitable ownership and/or other property interests in the Patent Rights, inconsistent
15 with and superior to any interest claimed by Defendants and without being subject to
16 any license purportedly granted by Regents.

17 98. Due to Defendants' misconduct in acquiring, using, and disclosing the
18 Agensys LRRC15 Antibody Trade Secrets and related confidential information as
19 described above, Defendants have forfeited any competing interest in the Patent
20 Rights. Agensys' ownership and related interests include sole or joint legal and
21 equitable ownership of the Patent Rights and any related patents, patent applications,
22 continuations, continuations-in-part, divisionals, and foreign or U.S. counterparts
23 thereof that Defendants have or will file or claim. The Court should so declare
24 pursuant to 28 U.S.C. § 2201.

THIRD CAUSE OF ACTION

Breach of Contract

(Inventions Assignment Provisions)

(Against Peekhaus)

99. Agensys incorporates by reference the allegations contained in paragraphs 1 through 98 as though fully set forth herein.

100. Peekhaus' Employment Agreement with Agensys is a valid and enforceable agreement.

101. Agensys performed all terms, conditions, and obligations required of it under the Employment Agreement.

102. The Employment Agreement provided that Peekhaus did "hereby assign" to Agensys all right, title, and interest in any idea, formula, invention, discovery, design, drawing, process, method, technique, device, improvement, computer program and related documentation, technical and non-technical data, and work of authorship which Peekhaus may solely or jointly conceive, write, or acquire while working with Agensys.

103. In the Employment Agreement, Peekhaus acknowledged that all intellectual property rights in the inventions, discoveries, and other matters described in the foregoing paragraph belong to Agensys.

104. The Employment Agreement also required that Peekhaus promptly execute any and all documents assigning and otherwise vesting title in Agensys in any inventions, discoveries, and other matters described in Paragraph 102 above.

105. Peekhaus violated these provisions by purporting to assign to Regents the inventions and discoveries set forth in the Patent Rights.

106. As the direct and proximate result of these breaches, Agensys has suffered and, if Peekhaus' conduct is not stopped, will continue to suffer severe competitive harm, irreparable injury, and significant damages in an amount to be proven at trial.

1 107. As the direct and proximate result of these breaches, Peekhaus has
2 improperly obtained benefits, in an amount to be proven at trial, for which Agensys
3 is entitled to restitution.

4 108. On information and belief, if Peekhaus continues to misappropriate and
5 use Agensys LRRC15 Antibody Trade Secrets and related confidential information
6 for his own benefit or the benefit of others, Agensys will suffer competitive injury to
7 its significant detriment. Because Agensys' remedy at law is inadequate to fully
8 compensate for its harm, Agensys seeks, in addition to damages, equitable relief to
9 recover its inventions and intellectual property, including equitable transfer to
10 Agensys of ownership of the Patent Rights, and any and all related patents, patent
11 applications, continuations, continuations-in-part, divisionals, and foreign or U.S.
12 counterparts thereof, both U.S. and foreign, to protect Agensys' legitimate business
13 interests.

14 **FOURTH CAUSE OF ACTION**

15 **Breach of Contract**

16 **(Confidentiality Provisions)**

17 **(Against Peekhaus)**

18 109. Agensys incorporates by reference the allegations contained in
19 paragraphs 1 through 108 as though fully set forth herein.

20 110. Peekhaus' Employment Agreement with Agensys is a valid and
21 enforceable agreement.

22 111. Agensys performed all terms, conditions, and obligations required of it
23 under the Employment Agreement.

24 112. The Employment Agreement requires that Peekhaus return property and
25 information provided by and/or belonging to Agensys at the end of his employment.
26 The Employment Agreement also prohibits Peekhaus from disclosing or using
27 Agensys' confidential information for any purpose except for his employment with
28 Agensys.

113. After departing Agensys, Peekhaus violated the Employment Agreement by failing to return Agensys' property and information; by using Agensys LRRC15 Antibody Trade Secrets and related confidential information to his, Regents', and Ulmert's benefit; and by disclosing Agensys LRRC15 Antibody Trade Secrets and related confidential information to Regents, Ulmert, and others. Regents and Ulmert thereafter used and disclosed Agensys LRRC15 Antibody Trade Secrets and related confidential information as detailed above.

114. As the direct and proximate result of these breaches, Agensys has suffered and, if Peekhaus' conduct is not stopped, will continue to suffer severe competitive harm, irreparable injury, and significant damages in an amount to be proven at trial.

115. As the direct and proximate result of these breaches, Peekhaus has improperly obtained benefits, in an amount to be proven at trial, for which Agensys is entitled to restitution.

116. On information and belief, if Peekhaus continues to misappropriate and use Agensys LRRC15 Antibody Trade Secrets and related confidential information, Agensys will suffer competitive injury to its significant detriment. Because Agensys' remedy at law is inadequate to fully compensate for its harm, Agensys seeks, in addition to damages, equitable relief to recover its inventions and intellectual property, including equitable assignment of the Patent Rights, and any and all related patents, patent applications, continuations, continuations-in-part, divisionals, and foreign or U.S. counterparts thereof, both U.S. and foreign, to protect Agensys' legitimate business interests.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Agensys prays for judgment against Defendants Regents, Peekhaus, Ulmert, and Does 1-10 as follows:

1. Judgment in Agensys' favor against Defendants on all causes of action alleged herein;

1 2. Damages according to proof in an amount to be determined at trial;

2 3. Exemplary damages in view of the willful and malicious
3 misappropriation of Agensys' trade secrets in an amount to be determined at trial;

4 4. A declaration that Agensys has legal or equitable ownership or co-
5 ownership and interest in the Patent Rights, and all related patents, patent
6 applications, continuations, continuations-in-part, divisionals, and foreign or U.S.
7 counterparts thereto, including, but not limited to, U.S. Patent Application No.
8 17/915,377; U.S. Provisional Application No. 63/003,598; and International
9 Application No. PCT/US2021/025054, inconsistent and superior to any interest
10 asserted by Defendants and without being subject to any license purportedly granted
11 by Regents;

12 5. Injunctive relief, including a permanent injunction: (a) requiring
13 Defendants, and any other individuals and entities acting in concert with them, to
14 return all of Agensys' confidential information; (b) requiring Defendants to disclose
15 and assign to Agensys any and all inventions, including all pending patent
16 applications and issued patents, of which Agensys is the rightful owner or which
17 contain or are derived from Agensys' trade secrets or other confidential information;
18 (c) prohibiting Defendants and those acting in concert with them from using
19 Agensys' trade secrets, confidential information, and inventions without Agensys'
20 consent; and (d) enjoining Defendants from further prosecution of patent
21 applications, without Agensys' consent and control, of which Agensys is the rightful
22 owner or which contain or are derived from Agensys' trade secrets or other
23 confidential information;

24 6. A declaration that Agensys has the right to prosecute the Patent Rights,
25 and all related patents, patent applications, continuations, continuations-in-part,
26 divisionals, and foreign or U.S. counterparts thereto;

27 7. A judgment that Agensys is entitled to specific performance by
28 Peekhaus of all provisions in his Employment Agreement with Agensys, including

1 the assignment of all exclusive ownership, rights, and titles developed within the
2 scope of his employment, to Agensys;

3 8. Restitution of all property, profits, or other benefits wrongfully
4 acquired;

5 9. Attorneys' fees and costs incurred by virtue of the dispute;

6 10. Pre-judgment and post-judgment interest at the maximum rate allowed
7 by law; and

8 11. Such other and further relief as Agensys may be entitled to or the Court
9 may deem proper.

10 Dated: May 13, 2024

JONES DAY

11
12 By: s/ Randall E. Kay
13 Randall E. Kay

14 Attorneys for Plaintiff
AGENSYS, INC.

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff Agensys, Inc. respectfully requests a jury trial in this action on all
17 issues so triable.

18
19 Dated: May 13, 2024

JONES DAY

20
21 By: s/ Randall E. Kay
22 Randall E. Kay

23 Attorneys for Plaintiff
AGENSYS, INC.